

- IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK**

- (2) Defendants and all persons acting in concert with any of them are hereby preliminarily enjoined from:
 - (a) Directly or indirectly, and in any manner, using or disclosing any Confidential Information belonging to or originating from Klein Cutlery, including but not limited to disclosing Klein Cutlery's Confidential Information to Ontario Knife Co. or any third party;
 - (b) Directly, or indirectly through West's employer, soliciting business from, or diverting the business of, any Klein Cutlery customer that was identified using Klein Cutlery Confidential Information; and
 - (c) Destroying, altering, modifying or concealing any data relevant to this action or Klein Cutlery's Confidential Information stored on any computer media or in hard copy form.
- (3) The Defendants shall immediately cease use or deletion of any materials from any computer, computer hard drive, website, external drive, flash drive, zip drive, thumb drive, iPod, or any similar device on which data may be stored, to which the Defendants sent or uploaded any Klein Cutlery documents.
- (4) All other documents and copies, whether or not they contain Confidential Information, that in any way originate or arise from Klein Cutlery and/or the Defendants' employment with Klein Cutlery, be returned to Klein Cutlery, as well as all documents that to any extent contain, in whole or in part, information derived from those documents.
- (5) The Court recognizes that Defendants dispute the facts that are subject to the foregoing preliminary findings. In consenting to this Agreed Order, the preliminary findings, and injunctive relief, Defendants do not acknowledge or agree that any of the above preliminary findings are true and reserve all rights to contest the above preliminary findings. Nothing in this Order shall be construed as affecting the rights of the parties to any legal claims or defenses arising from or relating to the Employee Confidentiality, Intellectual Property and Non-Competition Agreement, which is the subject of this action. These preliminary findings are made without prejudice to any factual, legal, or equitable defenses that Defendants may later present.
- (6) Klein Cutlery's Motion for Expedited Discovery ("Discovery Motion") is Granted:
 - (a) The Defendants are ordered to respond to the Document Requests attached to Klein Cutlery's Discovery Motion on or before March 23, 2009, and to appear for their depositions on or before April 3, 2009; and

- (b) Klein Cutlery is granted leave to serve the Subpoenas attached to the Discovery Motion on Ontario Knife Co. and Aero, Inc., each with a return date of March 23, 2009.

(7) This Order shall remain in effect until further order of the Court.

Accordingly,

IT HEREBY IS ORDERED, that Plaintiff's Motion for Temporary Restraining Order (Docket No. 2) is DENIED AS MOOT in light of the parties' agreement to entry of this Preliminary Injunction.

FURTHER, that Plaintiff's Motion for Expedited Discovery (Docket No. 5) is GRANTED.

FURTHER, that the parties' Joint Motion for Preliminary Injunction and Discovery (Docket No. 12) is GRANTED.

SO ORDERED.

DATED: March 19, 2009
Buffalo, NY

/s/William M. Skretny
WILLIAM M. SKRETNY
United States District Judge